

TOWN OF UNDERHILL

Development Review Board

ROSS BREWER
SITE PLAN REVIEW
Docket #: DRB-20-07

Applicant(s):	Ross Brewer
Consultant:	Jay Meadows, Exemplars Peter Mazurak, TCE Engineering Scott Pike, Larson Construction
Property Location:	413 Vermont Route 15 (VT413)
Acreage:	± 0.29 Acres
Zoning District(s):	Underhill Flats Village Center District
Project Information:	The Applicant is proposing to construct an office building. The previously approved mixed-use structure, which was permitted by the Board (DRB-17-09), was abandoned after discovering that the project was cost prohibitive. The structure was demolished in the fall of 2019.

2020 UNDERHILL UNIFIED LAND USE & DEVELOPMENT REGULATIONS RELEVANT REGULATIONS:

- Article II, Table 2.2 – Underhill Flats Village Center District (pg. 9)
- Article III, Section 3.1 – Abandoned & Damaged Structures (pg. 29)
- Article III, Section 3.2 – Access (pg. 30)
- Article III, Section 3.3 – Conversion or Change of Use (pg. 31)
- Article III, Section 3.7 – Lot, Yard & Setback Requirements (pg. 36)
- Article III, Section 3.8 – Nonconforming Lots (pg. 37)
- Article III, Section 3.9 – Nonconforming Structures (pg. 38)
- Article III, Section 3.11 – Outdoor Lighting (pg. 40)
- Article III, Section 3.13 – Parking, Loading & Service Areas (pg. 42)
- Article III, Section 3.14 – Performance Standards (pg. 45)
- Article III, Section 3.16 – Signs (pg. 49)
- Article III, Section 3.17 – Source Protection Areas (pg. 53)
- Article III, Section 3.18 – Steep Slopes (pg. 55)
- Article III, Section 3.19 – Surface Waters & Wetlands (pg. 62)
- Article III, Section 3.23 – Water Supply & Wastewater Systems (pg. 66)
- Article V, Section 5.1 – Applicability (pg. 110)
- Article V, Section 5.3 – Site Plan Review (pg. 113)
- Article VI – Flood Hazard Area Review (pg. 125)
- Appendix A – *Underhill Road, Driveway, Trail Ordinance*

CONTENTS:

- a. Exhibit A - Brewer Site Plan Review Staff Report
- b. Exhibit B - Brewer (VT413) Site Plan Review Hearing Procedures
- c. Exhibit C - Brewer Development Review Application
- d. Exhibit D - Responses to Supplemental Questions
- e. Exhibit E - BFP Notice
- f. Exhibit F - VT413 Certificate of Service
- g. Exhibit G - Zoning Permit Application (VT413)
- h. Exhibit H - Access Permit Application (A-20-03)
- i. Exhibit I - Floor Plan
- j. Exhibit J - Elevation
- k. Exhibit K - AOT Notice of Permit Action
- l. Exhibit L - Site Plan
- m. Exhibit M - DRB Decision DRB-17-09

COMMENTS/QUESTIONS

1. **TABLE 2.4 – UNDERHILL FLATTS VILLAGE CENTER DISTRICT:**

- a. The Applicant is proposing to construct the structure within the same footprint as the previously approved project, though with a smaller footprint.
- b. The proposed office building will fail to satisfy the south side property setback requirement, as well as the west rear property setback requirement.

2. **SECTION 3.1 – ABANDONED & DAMAGED STRUCTURES:** During the renovations of the structure, which was for a previously approved conversion of use permit (DRB-17-09, Exhibit M), the Applicant discovered that the project was becoming cost prohibitive due to the significant damage to the structure, and therefore, forced to abandon the project.

3. **SECTION 3.2 – ACCESS:**

- a. The Applicant is proposing to close the currently existing northern curb cut and plant grass in what is currently the northern half of the parking lot.
- b. The nearest part of the parking lot is ± 1 ft. from the south, side property line; therefore, is nonconforming with the 12 ft. setback requirement.

4. **SECTION 3.7 – LOT, YARD & SETBACK REQUIREMENTS:**

- a. Lot size: ± 0.29 acres in a 1.00 acre zoning district.
- b. The proposed structure will fail to meet the south side setback requirement and the west rear setback requirement, though the building will become more conforming, as the proposed structure will encroach less upon the south side setback.
- c. The part of the parking lot that is to remain will remain nonconforming, as it will be ± 1 ft. from the south side property line, thus failing to meet the 12 ft. setback requirement.
- d. The western portion of the proposed building will be in a Class II Wetlands buffer. (see Section 3.19 below).

5. **SECTION 3.9 – NONCONFORMING STRUCTURES:**

- a. Reconstruction of a structure within the a nonconforming footprint is permitted in accordance with Section 3.1 without needing to get approval from the Board.

- b. While the Applicant is proposing a minute expansion of the footprint, it is done so in a conforming area.
- 6. **SECTION 3.11 – OUTDOOR LIGHTING:** The Board typically requires that if new lighting is installed, it shall be downcast and shielded.
- 7. **SECTION 3.16 – SIGNS:** The Board should inquire as whether the Applicant is proposing a sign.
- 8. **SECTION 3.18 – STEEP SLOPES:** The Board should inquire if the steep slopes that are to be located behind the structure will remain undisturbed.
- 9. **SECTION 3.19 – SURFACE WATERS & WETLANDS:** While the Applicant is not proposing to enlarge the footprint of the previously existing structure, since the footprint of the building will be modified, verification from the State’s wetlands ecologist is recommended to ensure compliance.
- 10. **SECTION 3.23 – WATER SUPPLY & WASTEWATER SYSTEMS:** Staff is uncertain as to whether a new Wastewater System & Potable Water Supply permit needs to be submitted to the State and approved due to the changes with the proposed project.
- 11. **SECTION 5.3.B.1 – EXISTING SITE FEATURES:** The proposed office building appears to avoid, or conforms with, the constraints and requirements pertaining to the resources identified under Section 5.3.A.1, except for a wetland buffer (Section 5.3.B.1.a.iv).
- 12. **SECTION 5.3.B.2 – SITE LAYOUT & DESIGN:** The Applicant is proposing a traditional-looking structure that will conform with the village settlement pattern.
- 13. **SECTION 4.C – DEVELOPMENT ROAD & DRIVEWAY STANDARDS:**
 - a. The entrance to the parking area and parking lot currently satisfies the topography requirements except for impacting prime agricultural soils
 - b. The Board should inquire with the Applicant what the turning radii is.
 - c. Curbing shall be a minimum of seven inches in height, granite, and either vertical or sloped.
 - d. The Board should inquire about drainage patterns, especially with the addition of curbs.
 - e. The Board should inquire about banks and ditches.
 - f. Comments from the Road Foreman will need to be solicited and will be subsequently entered into the record.
- 14. **SECTION 5.A – DRIVEWAYS:**
 - a. The entrance to the parking area is located approximately 19 feet from the south side property line; however, fails to satisfy the setback requirements of the district (though the parking lot is already nonconforming).
 - b. During the site visit on Saturday, July 18, 2020, the Board should examine if the parking area and entrance are required to be brought up to the AOT B-71 standards.

STAFF FINDINGS OF RELEVANT SECTIONS

ARTICLE II – ZONING DISTRICTS

Zoning Districts	
■	Underhill Flats Village Center (1.0 Acre)
■	Underhill Center Village (1.5 Acres)
■	Rural Residential (3 Acres)
■	Water Conservation (5.0 Acres)
■	Scenic Preservation (10 Acres)
■	Soil and Water Conservation (15 Acres)



	Underhill Flats Village Center		Proposed Office Building
Lot Size:	1.0 Acre		±0.29 Acres
Frontage:	150 ft.		±112 ft.
Setbacks:	Principal	Accessory	Source: Site Plan (Exhibit L)
• Front East	0 ft.	Behind Front Building Line	±46 ft.
• Side 1 North	20 ft.	15 ft.	±38 ft.
• Side 2 South	20 ft.	15 ft.	±17 ft.
• Rear West	20 ft.	15 ft.	±16 ft.
Max. Building Coverage:	50%		Assumed Met
Max. Lot Coverage:	75%		Assumed Met
Maximum Height:	35 ft.		Assumed Met

TABLE 2.4 – UNDERHILL FLATS VILLAGE CENTER DISTRICT**PG. 9**

Purpose Statement: The purpose of the Underhill Flats Village Center District (formerly known as the Residential District) is to allow for the continuation of existing small scale commercial, residential and public uses, and to encourage development that is compatible with and promotes a compact, historic village settlement pattern. This may include higher densities of development as supported by existing and planned infrastructure.

- The proposed office conforms with the above-outlined purpose statement, as the use is small-scale commercial.
- The existing lot does not conform to the minimize lot size requirement, and is therefore, a preexisting nonconforming lot (see Section 3.8, Nonconforming Lots below).
- The Applicant is proposing to construct the structure within the same footprint as the previously approved project, though with a smaller footprint.
 - The proposed office building will fail to satisfy the south side property setback requirement, as well as the west rear property setback requirement.
- See Sections 3.7, 3.8 and 3.9 for more discussion.

ARTICLE III – GENERAL REGULATIONS

SECTION 3.1 – ABANDONED & DAMAGED STRUCTURES**PG. 29**

- During the renovations of the structure, which was for a previously approved conversion of use permit (DRB-17-09, Exhibit M), the Applicant discovered that the project was becoming cost prohibitive due to the significant damage to the structure, and therefore, forced to abandon the project.
 - The discovery of this damage was unanticipated, and did not emerge until 2019.
 - Deconstruction of the building occurred in the fall of 2019.
 - Reconstruction should commence within two years from the event that caused the damage (Staff interprets this as beginning once discovered for these older types of buildings).
 - A zoning permit is required since the Applicant is proposing different dimensions and a change of use from a mixed-use structure to an office building.

SECTION 3.2 – ACCESS**PG. 30**

- The subject lot accesses Vermont Route 15, a State Highway, with two curb cuts – a north and a south curb cut.
- The Applicant is proposing to close the currently existing northern curb cut and plant grass in what is currently the northern half of the parking lot.
 - The Applicant submitted a Town Access Permit Application (see Exhibit H), as well as documentation showing Vermont Agency of Transportation issued a permit (see Exhibit K).
- The nearest part of the parking lot is ±1 ft. from the south, side property line and ±64 ft. from the rear, west property line; therefore, is nonconforming with the 12 ft. setback requirement.
 - *Note:* The Board has authority to require the Applicants to relocated the existing access way if necessary per Section 3.2.D.4.
 - Relocation is not recommended and seems unnecessary.
- While the Applicant is proposing to remove the northern curb cut, as well as plant grass in place of the northern half of the parking lot, no modifications are being proposed to the southern part of the parking lot.
 - The Board has the authority to further review the parking lot area to bring it into conformance, though not recommended.

SECTION 3.3 – CONVERSION OR CHANGE OF USE**PG. 31**

- The Applicant is proposing to convert the subject structure from a mixed-use structure (conditional use review required) to an office building (site plan review required).
- Since the proposed use requires site plan review, review by the Board is still required.

SECTION 3.7 – LOT, YARD & SETBACK REQUIREMENTS

PG. 36

- The proposed structure, an office building, will be the sole structure and use of the property.
- The existing lot is nonconforming:
 - Lot size: ±0.29 acres in a 1.00 acre zoning district.
 - Frontage: ±112 ft. instead of greater than 150 ft.
- See table above for setback requirements and conformance with the dimensional requirements of the underlying district – the Underhill Flats Village Center District.
 - The proposed structure will fail to meet the south side setback requirement and the west rear setback requirement, though the building will become more conforming, as the proposed structure will encroach less upon the south side setback.
- The part of the parking lot that is to remain will remain nonconforming, as it will be ±1 ft. from the south side property line, thus failing to meet the 12 ft. setback requirement.
- The western portion of the proposed building will be in a Class II Wetlands buffer. (see Section 3.19 below).

SECTION 3.8 – NONCONFORMING LOTS

PG. 37

- The subject lot was legally in existence on the effective date of the current *Unified Land Use & Development Regulations* (March 1, 2011; Amended thru March 3, 2020).
 - The lot may be developed for purposes allowed in the underlying district (Section 3.8.A).

SECTION 3.9 – NONCONFORMING STRUCTURES

PG. 38

- The Applicant has already demolished the existing structure, and is proposing a smaller structure in the same footprint of what once existence, which will be in conformance with Section 3.1 that will be more conforming.
 - The construction of the new building is largely within the same footprint, thereby not increasing the degree of nonconformance.
 - Reconstruction of a structure within the a nonconforming footprint is permitted in accordance with Section 3.1 without needing to get approval from the Board.
 - While the Applicant is proposing a minute expansion of the footprint, it is done so in a conforming area.

SECTION 3.11 – OUTDOOR LIGHTING

PG. 40

- The Applicant is only proposing lighting at the entrance to the building (see Exhibit D).
- The Board typically requires that if new lighting is installed, it shall be downcast and shielded.

SECTION 3.13 – PARKING, LOADING & SERVICE AREAS

PG. 42

- Office space has a parking requirement of one parking space per 300 sq. ft. of gross area.
 - The proposed structure is to be 2,284 sq. ft.
 - Eight parking spaces are required (2,284 sq. ft. / 300 sq. ft. = 7.6 spaces)
- The Applicant is proposing 9 parking space, which includes a handicapped parking space.

SECTION 3.14 – PERFORMANCE STANDARDS

PG. 45

- The proposed office space is not anticipated to cause, create or result in any of the situations identified in Section 3.14.B.

SECTION 3.16 – SIGNS

PG. 49

- The Board should inquire as whether the Applicant is proposing a sign.
 - If so, the proposed sign will need to be reviewed to ensure compliance.

SECTION 3.17 – SOURCE PROTECTION AREAS

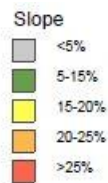
PG. 53

- The subject lot is not located within the Groundwater Source Protection Area.
- The subject lot is not located within the vicinity of a public water source.

SECTION 3.18 – STEEP SLOPES

PG. 55

- The ANR Atlas depicts areas of steep slopes (15%-25%) or very steep slopes (>25%) in the project area (see directly to the right).
- As witnessed at the site visit for the Applicant's previous application (DRB-17-09), the previously existing structure was not located in a steep slope, but was located directly adjacent to one.
- The Board should inquire if the steep slopes that are to be located behind the structure will remain undisturbed.



SECTION 3.19 – SURFACE WATERS & WETLANDS

PG. 62

- The ANR Atlas does not depict any surface waters on the property.
- The Applicant has submitted a site plan depicting Class II Wetlands on the abutting lot to the west (see Exhibit L).
 - The Class II Wetlands buffer is depicted as bisecting the western portion of the structure.
- While the Applicant is not proposing to enlarge the footprint of the previously existing structure, since the footprint of the building will be modified, verification from the State's wetlands ecologist is recommended to ensure compliance.
 - Section 3.19.D.6 states: "A state wetlands permit shall be required prior to local approval for permits involving Class I and II buffer/setback reductions.
 - The Regulations appear to silent in regards to decreasing the nonconformance of a structure.

SECTION 3.23 – WATER SUPPLY & WASTEWATER SYSTEMS

PG. 66

- The Applicant has submitted a revised engineering plan (originally submitted as part of the Board's previous review – DRB-17-09).
- Staff is uncertain as to whether a new Wastewater System & Potable Water Supply permit needs to be submitted to the State and approved due to the changes with the proposed project.

ARTICLE V – DEVELOPMENT REVIEW

SECTION 5.1 – APPLICABILITY

SECTION 5.1.A – TYPE OF REVIEW REQUIRED

PG. 110

- Site plan review is required in accordance with Table 2.2.B.14.

SECTION 5.1.B – COORDINATION OF REVIEW

PG. 110

- Does not apply.

SECTION 5.3 – SITE PLAN REVIEW

SECTION 5.3.A – PURPOSE

PG. 113

- Site plan review is intended to ensure that site layout and development design are functional, safe, attractive, and consistent with the purpose and character of the district(s) in which the development is located. Standards specifically relate to the internal layout of the site, its physical design, and the functional and visual integration of the site with adjoining properties, uses and infrastructure.

SECTION 5.3.B – STANDARDS *(the Board may wish to consider and impose appropriate safeguards, modifications and conditions relating to any of the following standards:)*

SECTION 5.3.B.1 – EXISTING SITE FEATURES

PG. 113

- The proposed office building appears to avoid, or conforms with, the constraints and requirements pertaining to the resources identified under Section 5.3.A.1, except for a wetland buffer (Section 5.3.B.1.a.iv).
- Should the Board discover any of the resources identified under Section 5.3.A.1, they have the ability to require one or more of the mitigation techniques:
 - Increased setback distances or undisturbed buffer areas between proposed development and identified resources.
 - The designation of building envelopes sited to exclude identified resource areas, and to limit the extent of site clearing and disturbance.
 - Permanent protection of identified resource areas as designated open space.
 - The screening of development as viewed from public vantage points.
 - The preparation and implementation of management plans for identified resources.

SECTION 5.3.B.2 – SITE LAYOUT & DESIGN

PG. 113

Underhill Flats Village Center and Underhill Center Village Districts. Site design and layout shall reinforce a traditional, compact, village settlement pattern characterized by a pedestrian scale and orientation, traditional densities and setbacks, well-defined streetscapes that include sidewalks or paths to facilitate pedestrian circulation, and a well-defined physical and visual edge to the built environment. Principal buildings shall be scaled and oriented in relation to adjoining structures, with principal facades and entrances facing the road or central greens, and shall establish or maintain a consistent front set back distance (building line) from the street in relation to adjoining structures.

- The proposed office building appears to be consistent with the site layout & design standards provided directly to the left.
- The Applicant is proposing a traditional-looking structure that will conform with the village settlement pattern.
- The proposed structure will be of smaller scale from what originally existed, and will be consistent with the buildings in the surrounding area.
- The main entrance will face Vermont Route 15, and will be consistent with other structures in regards to its distance from the road.

SECTION 5.3.B.3 – VEHICLE ACCESS

PG. 114

- The Applicant is proposing to close the northern curb cut, as well as reducing the size of the parking lot, and will be accessed for a curb cut located towards the southeast portion of the property.
- See Section 3.2 above.

SECTION 5.3.B.4 – PARKING, LOADING & SERVICE AREAS

PG. 115

- See Section 3.13 above.

SECTION 5.3.B.5 – SITE CIRCULATION

PG. 115

- With the reduction of parking area and the consolidation of access to one defined curb cut, site circulation for pedestrians and vehicles should be safer.

SECTION 5.3.B.6 – LANDSCAPING & SCREENING

PG. 116

- With the parking lot almost directly abutting the abutting neighbor to the south, the Board should consider the requirement of a fence between the two lots to shield the southern neighbor from car headlights.
- The Applicant is proposing to add a fence that will shield the northern neighbor from the parking lot (see Exhibit L).
- The regulations require that landscaping and natural screening shall be provided in front yards, adjacent to parking areas.
 - Given the nonconformity of the lot and the tight parking arrangements, the Board should determine if they wish to forgo this requirement (as allowed under Section 5.3.B – see language above)

SECTION 5.3.B.7 – OUTDOOR LIGHTING

PG. 117

- See Section 3.11 above.

SECTION 5.3.B.8 – STORMWATER MANAGEMENT AND EROSION CONTROL

PG. 117

- The Board typically requires as a condition of approval that the Applicants adhere to the guidelines set out in the Vermont DEC Low Risk Site Handbook for Erosion Prevention and Sediment Control.
- The Applicant is proposing to eliminate the northern half of the parking lot and plant grass, which should reduce the impervious surface of the lot.

SECTION 5.5 – WAIVERS & VARIANCES

SECTION 5.5.B – DIMENSIONAL WAIVERS

PG. 113

- Since the Applicant is proposing to construct a structure in the same footprint, Staff opined that the waiver process could be forgone, as the structure conforms with Sections 3.1 & 3.9 above.

ARTICLE VI – FLOOD HAZARD AREA REVIEW (PG. 125)

- No Special Flood Hazard Areas are depicted on the existing lot (source: ANR Website); therefore, review under this Article is not required.

APPENDIX A – ROAD & DRIVEWAY STANDARDS

SECTION 4 – GENERAL PROVISIONS RELATING TO ACCESSWAYS

SECTION 4.B – REASONABLE ACCESS

PG. 8

- The Applicant is proposing to eliminate the northern entrance, thus creating one entrance towards the southeast portion of the lot.
- The lot will be accessed via Vermont State Route 15.
 - The Applicant submitted a Town Access Permit Application (see Exhibit H), as well as documentation showing Vermont Agency of Transportation issued a permit (see Exhibit K).

SECTION 4.C – DEVELOPMENT ROAD & DRIVEWAY STANDARDS

PG. 8

- | | |
|--|---|
| <ol style="list-style-type: none"> 1. <i>GRADES</i> 2. <i>TOPOGRAPHY</i> 3. <i>RADII</i> 4. <i>CURBS</i> 5. <i>GEOTEXTILES</i> 6. <i>DRAINAGE</i> 7. <i>SLOPES, BANKS & DITCHES</i> 8. <i>WET AREAS</i> 9. <i>CULVERS</i> 10. <i>STREAM CROSSINGS</i> 11. <i>BRIDGES</i> 12. <i>DESIGN</i> | <ul style="list-style-type: none"> • The entrance to the parking area and parking lot currently satisfies the 10% slope requirement. • The entrance to the parking area and parking lot currently satisfies the topography requirements except for impacting prime agricultural soils; however, the Applicant is proposing to decrease the impervious surface of the lot, which be beneficial rather than adverse to prime agricultural soils. • The site plan does not provide the turning radii. <ul style="list-style-type: none"> ○ The Board should inquire with the Applicant what the turning radii is. • The Applicant is proposing curbing: <ul style="list-style-type: none"> ○ Curbing shall be a minimum of seven inches in height, granite, and either vertical or sloped. ○ Curbing is permitted only in the Underhill Flats Village Center District. • Staff makes no findings regarding geotextiles. • The Board should inquire about drainage patterns, especially with the addition of curbs. • The Board should inquire about banks and ditches. • Staff makes no findings. • Comments from the Road Foreman will need to be solicited and will be subsequently entered into the record. • Does not apply. • Does not apply. • The proposed parking area appears to satisfy the requirements of this section. |
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SECTION 5 – SPECIFIC PROVISIONS: DRIVEWAYS & DEVELOPMENT ROADS

SECTION 5.A - DRIVEWAYS

PG. 11

- | | |
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| <ol style="list-style-type: none"> 1. <i>CONSTRUCTION & DESIGN REQUIREMENTS</i> | <ul style="list-style-type: none"> • The entrance to the parking area is located approximately 19 feet from the south side property line; however, fails to satisfy the setback requirements of the district (though the parking lot is already nonconforming). • During the site visit on Saturday, July 18, 2020, the Board should examine if the parking area and entrance are required to be brought up to the AOT B-71 standards. |
|--|--|

2. *LOCATION*

3. *WIDTHS*

4. *NONCONFORMING LOTS*

- The Applicant is proposing to eliminate the northern curb cut.
 - One curb cut towards the southeast portion of the lot will be provided for.
 - The width of the parking lot entrance is proposed to be approximately 25 ft. (Detail C of the B-71 Standards required a minimum of 24 ft.).
 - 8 parking spaces are provided that are 9 ft. by 18 ft. and one handicapped space that is 11 ft. by 18 ft.
- Staff does not believe this section applies.